

AMENDED IN SENATE JULY 9, 1998
AMENDED IN SENATE JULY 2, 1998
AMENDED IN ASSEMBLY MAY 6, 1998
AMENDED IN ASSEMBLY APRIL 14, 1998
AMENDED IN ASSEMBLY MARCH 24, 1998

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

ASSEMBLY BILL

No. 1994

Introduced by Assembly Member Bowen

February 18, 1998

An act to add Section 17538.9 to the Business and Professions Code, relating to advertising.

LEGISLATIVE COUNSEL'S DIGEST

AB 1994, as amended, Bowen. Advertising: prepaid calling cards and services.

Existing law provides for the regulation of advertising in the state.

This bill would prescribe certain standards and requirements for consumer disclosure and services with respect to the advertising and sale of prepaid calling cards and prepaid calling services, as defined.

Existing law makes it a crime to violate any of the provisions regulating advertising. By adding these new standards and requirements with respect to the advertising of prepaid calling cards and prepaid calling services, this bill would

expand the scope of an existing crime, thereby creating a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 17538.9 is added to the Business
2 and Professions Code, to read:

3 17538.9. (a) For the purposes of this section:

4 (1) “Company” refers to any entity providing prepaid
5 calling services to the public using its own or a resold
6 telecommunications network.

7 (2) “Prepaid calling services” or “services” refers to
8 any prepaid telecommunications service that allows
9 consumers to originate calls through an access number
10 and authorization code, whether manually or
11 electronically dialed.

12 (3) “Prepaid calling card” or “card” means any object
13 containing an access number and authorization code that
14 enables a consumer to use prepaid calling services. It does
15 not include any object of that type used for promotional
16 purposes.

17 (b) The following standards and requirements for
18 consumer disclosure and services shall apply with respect
19 to the advertising and sale of prepaid calling cards and
20 prepaid calling services:

21 ~~(1) Any rate of charges or unit cost advertised by any~~
22 ~~medium or marketed in connection with the sale of~~
23 ~~prepaid calling services shall include any and all~~
24 ~~applicable surcharges and fees.~~

25 ~~(2) Print advertisements that contain reference to any~~
26 ~~rate of charges or unit cost in regard to prepaid calling~~
27 ~~services shall contain the following disclosures:~~

1 ~~(A) Any applicable surcharges or fees, including~~
2 ~~monthly fees, per-call access fees, international~~
3 ~~surcharges, or surcharges for the first minute of use.~~

4 ~~(B) Any minimum charge per call, such as a~~
5 ~~three-minute minimum charge.~~

6 ~~(C) Any charge for calls that do not connect.~~

7 ~~(D) A definition of the term "unit."~~

8 ~~(E) The increment used for charging one unit, such as~~
9 ~~a 6-second, 10-second, or one-minute increment.~~

10 ~~(F) The name of the card issuer.~~

11 ~~(G) Whether the card is rechargeable.~~

12 ~~(H) Refund policy.~~

13 ~~(I) Expiration policy.~~

14 ~~(J) A 24-hour customer service toll-free telephone~~
15 ~~number.~~

16 ~~(3)~~

17 *(1) Any advertisement of the price, rate, or unit value*
18 *in connection with the sale of prepaid calling services*
19 *shall include a disclosure of any geographic limitation to*
20 *the advertised price, rate, or unit value, as well as a*
21 *disclosure of any additional surcharges, call setup charges,*
22 *or fees applicable to the advertised price, rate, or unit*
23 *value.*

24 (2) The following information shall be legibly printed
25 on the card:

26 (A) The name of the company.

27 (B) A toll-free customer service number.

28 (C) A toll-free network access number, if required to
29 access service.

30 (D) The authorization code, if required to access
31 service.

32 (E) The expiration date *or policy*, if applicable, except
33 where paragraph-(7) (6) applies.

34 ~~(4) The following information shall be legibly printed~~
35 ~~on the card or packaging or display visible in a prominent~~
36 ~~area at the point of sale of the prepaid calling card or~~
37 ~~service:~~

38 ~~(A) Any applicable surcharges or fees, including~~
39 ~~monthly fees, per-call access fees, international~~
40 ~~surcharges, or surcharges for the first minute of use.~~

- 1 ~~(B) Any minimum charge per call, such as a~~
2 ~~three-minute minimum charge.~~
3 ~~(C) Any charge for calls that do not connect.~~
4 ~~(D) A definition of the term "unit," if applicable~~
5 ~~(E) The increment used for charging one unit, such as~~
6 ~~a 6-second, 10-second, or one-minute increment.~~
7 ~~(F) The name of the company.~~
8 ~~(G) Whether the card is rechargeable.~~
9 ~~(H) Refund policy.~~
10 ~~(I) Expiration policy.~~
11 ~~(J) A 24-hour customer service toll-free telephone~~
12 ~~number.~~
13 ~~(5)~~
14 *(3) The company shall print legibly on the card or*
15 *packaging, and the vendor shall make available in a*
16 *prominent area at the point of sale of the prepaid calling*
17 *card or prepaid calling services, the following*
18 *information:*
19 *(A) Any surcharges or fees, including monthly fees,*
20 *per-call access fees, or surcharges for the first minute of*
21 *use that may be applicable to use of the prepaid calling*
22 *card or prepaid calling services within the United States.*
23 *(B) Whether there are additional or different prices,*
24 *rates, or unit values applicable to international usage of*
25 *the prepaid calling card or prepaid calling services.*
26 *(C) The minimum charge per call, such as a*
27 *three-minute minimum charge, if any.*
28 *(D) The charge for calls that do not connect, if any.*
29 *(E) The definition of the term "unit," if applicable.*
30 *(F) The billing decrement.*
31 *(G) The name of the company.*
32 *(H) The recharge policy, if any.*
33 *(I) The refund policy, if any.*
34 *(J) The expiration policy, if any.*
35 *(K) The 24-hour customer service toll-free telephone*
36 *number required in paragraph (4).*
37 *(4) Each company shall establish and maintain a*
38 *toll-free customer service telephone number with a live*
39 *operator to answer incoming calls 24-hours a day, seven*
40 *days a week, through which consumers may lodge*

1 relevant complaints and through which the following
2 information may be obtained by consumers:

3 ~~(A) All applicable rates, surcharges, fees, and taxes.~~

4 (A) *All rates, surcharges, and fees.*

5 (B) The company's recharge, refund, and expiration
6 policies.

7 (C) The balance of use in the consumer's account, *if*
8 *applicable.*

9 ~~(6) Each company shall provide, with respect to any~~
10 ~~prepaid calling card or service rendered unusable for~~
11 ~~reasons beyond the consumer's control, and that has not~~
12 ~~exceeded the stated expiration period, a refund equal to~~
13 ~~the value remaining on the card or in the form of a~~
14 ~~replacement card, but shall provide that refund to the~~
15 ~~consumer within 60 days from the date of receipt of~~
16 ~~notification from the consumer that the card is unusable.~~
17 ~~Each company may, but shall not be required to, provide~~
18 ~~a refund when a card has been lost or stolen.~~

19 ~~(7) Cards without a specific expiration date printed on~~

20 (5) *Each company that issues prepaid calling cards or*
21 *prepaid calling services shall provide a refund to any*
22 *purchaser of a prepaid calling card or prepaid calling*
23 *services if the network services associated with that card*
24 *or services fail to operate in a commercially reasonable*
25 *manner. The refund shall be in an amount not less than*
26 *the value remaining on the card or in the form of a*
27 *replacement card, and shall be provided to the consumer*
28 *within 60 days from the date of receipt of notification*
29 *from the consumer that the card has failed to operate in*
30 *a commercially reasonable manner.*

31 (6) *Cards without a specific expiration date or policy*
32 *printed on the card, and with a balance of service*
33 *remaining, shall be considered active for a minimum of*
34 *one year from the date of purchase, or if recharged, from*
35 *the date of the last recharge.*

36 ~~(8)~~

37 (7) *In the case of prepaid calling cards or services*
38 *utilized at a payphone, the company may provide voice*
39 *prompt notification of any applicable payphone*
40 ~~*surcharges. surcharges, in lieu of providing notice of*~~

1 *surcharges as required by paragraph (1) and by*
2 *subparagraph (A) of paragraph (3).*

3 *(c) This section shall become operative on April 1,*
4 *1999.*

5 SEC. 2. No reimbursement is required by this act
6 pursuant to Section 6 of Article XIII B of the California
7 Constitution because the only costs that may be incurred
8 by a local agency or school district will be incurred
9 because this act creates a new crime or infraction,
10 eliminates a crime or infraction, or changes the penalty
11 for a crime or infraction, within the meaning of Section
12 17556 of the Government Code, or changes the definition
13 of a crime within the meaning of Section 6 of Article
14 XIII B of the California Constitution.

15 Notwithstanding Section 17580 of the Government
16 Code, unless otherwise specified, the provisions of this act
17 shall become operative on the same date that the act
18 takes effect pursuant to the California Constitution.

